

JOHN E. KEITER (#16487)
KEITER LAW, PC
50 W. Broadway, Ste. 307
Salt Lake City, Utah 84101
Telephone: (801) 633-0559
Facsimile: (801) 776-1121
john@keiterlaw.com
Attorneys for Millrock Investment Fund 1, LLC

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

MILLROCK INVESTMENT FUND 1, LLC,

Plaintiff,

vs.

HEALTHCARE SOLUTIONS
MANAGEMENT GROUP, INC.;
HEALTHCARE SOLUTIONS HOLDINGS
INC.; LANDES CAPITAL
MANAGEMENT LLC; LANDES AND
COMPAGNIE TRSUT PRIVE KB;
JOSHUA CONSTANTIN; JUSTIN SMITH;
STUART MCMAHEN; AND BLACK
LABEL SERVICES, INC.

Defendants.

**JOINT STATUS REPORT AND
MOTION FOR MODIFICATION TO
SCHEDULING ORDER (Dkt. 116)**

Civil No. 2:23-cv-000157-RJS

Chief District Judge Robert J. Shelby

INTRODUCTION AND REQUESTED RELIEF

Pursuant to Federal Rules of Civil Procedure 6 and 16, Plaintiff Millrock Investment Fund 1, LLC, Justin Smith, and Stuart McMahan file this status report and jointly move the Court for a modification to the controlling Scheduling Order (Dkt. 116) which sets the close of fact discovery for January 17, 2025. The undersigned parties agree that a 6-month extension is

appropriate because of the unusual course of proceedings in this case which has inhibited Plaintiff from fully and fairly conducting discovery. McMahan asserts that the stays entered by the Court on account of Healthcare Solutions Management Group, Inc's ("HSMG") bankruptcy has caused confusion about deadlines for responses to discovery requests. Indeed, Plaintiff served its first set of discovery upon McMahan and Constantin back on July 25, 2024, which have gone unanswered. McMahan asserts that he can complete his discovery responses by January 15, 2025. Plaintiff desires to have responses to these requests prior to setting depositions. Plaintiff has attempted to meet and confer with Joshua Constantin to find consensus on the extension and resolve discovery concerns, but without success. Given the unusual course of these proceedings, the undersigned parties believe that justice would be served by a 6-month extension in discovery.

STATEMENT OF RELEVANT FACTS

1. On March 15, 2024, the court granted Plaintiff's motion to stay all deadlines in this case through July 31 2024. (Dkt. 110).
2. In that same order, the Court extended Plaintiff's deadline to respond to (i) a motion to dismiss (Dkt. 75) filed by Justin Smith; and (ii) a motion for summary judgment (Dkt. 95) filed by Constantin and McMahan through August 28, 2024.
3. Plaintiff served its first set of discovery upon McMahan and Constantin on July 25, 2024, which has not yet been responded to.
4. On December 25, 2024, the Court ruled on Smith's Motion to Dismiss, denying the same. (Dkt. 144).
5. On December 10, 2024, the Court entered an order denying McMahan's and Constantin's motion for summary judgment. (Dkt. 146).

6. On December 17, 2024, Plaintiff served written discovery upon Smith, which has a responsive deadline for January 14, 2025.

7. On December 18, 2024, Plaintiff and McMahan conferred on the outstanding discovery issued to him, and McMahan represented that he could have his responses by January 15, 2025.

8. Plaintiff sent an email to Smith discussing an extension to discovery on December 10, 2024, and followed up with a phone call on December 18, 2024, without success.

ARGUMENT

District courts have broad discretion in managing their pretrial schedules. *See Rimbart v. Eli Lilly & Co.*, 647 F.3d 1247, 1254 (10th Cir. 2011). Pursuant to Federal Rule of Civil Procedure 16(b)(4), a scheduling order can be modified on a showing of “good cause.” “This standard requires the movant to show the scheduling deadlines cannot be met despite the movant’s diligent efforts.” *Gale v. City & Cnty. of Denver*, 962 F.3d 1189, 1195 (10th Cir. 2020).

Here, Plaintiff has been diligent in issuing discovery within the times prescribed by the scheduling order, but has found some hinderance in the stay that was entered and later extended in consideration of HSMG’s bankruptcy. This stay caused delays in the briefing schedule for Smith’s Motion to Dismiss which was initially filed back in January 2024. The Court only recently entered its memorandum decision and order denying Smith’s motion. Thus, Plaintiff has been inhibited from serving discovery on Smith until just recently. Further, McMahan asserts that the stays caused confusion about the deadlines set for his responses to Plaintiff’s discovery; as such, Plaintiff is still awaiting responses to the discovery issued upon McMahan and Constantin back in July of 2024. Generally speaking, responses to written discovery serve as a

predicate for deposition questioning, thus complicating Plaintiff's scheduling of the parties' depositions.

For these reasons, the undersigned aver that, despite Plaintiff's best efforts, discovery cannot be adequately completed before expiration of the discovery deadline. The undersigned therefore believe that good cause exists to extend the discovery deadline by six months.

CONCLUSION

For the foregoing reasons, the undersigned respectfully request that the scheduling order be modified to provide for an additional six (6) months of discovery.

DATED: December 19, 2024.

KEITER LAW, P.C.

/s/ John E. Keiter
John E. Keiter
Attorney for Millrock Investment Fund I, LLC

/s/ Justin Smtih*
Justin Smith
Pro Se
*w/ written permission

/s/ Stuart McMahan*
Stuart McMahan
Pro Se
*w/ written permission

CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2024, I caused a true and correct copy of the foregoing document to be filed with the Court's ECF system and via email and first class U.S. Mail to the following:

Justin Smith 1346 Iroquois Avenue Mayfield Heights, OH 44124 jsmith@hshmedical.com justin.landes@gmail.com	Joshua Constantin 238 Solomon Drive Slidell, LA 70458 josh@hshmedical.com j@smmsgroup.nyc lcajosh1@gmail.com
Stuart McMahon 114 Hortman Dr. Springhill, LA 71075 Stuart.w.mcmahen@gmail.com	

/s/ John E. Keiter
John E. Keiter